

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSUE UBALDO CALVARIO,

Defendant.

CASE NO. 19-245 RSM

ORDER

THIS COURT having considered the Stipulated Motion to Continue Trial and Pretrial Motions Dates and the facts set forth therein, and General Order 02-20 of the United States District Court for the Western District of Washington addressing measures to reduce the spread and health risks from COVID-19, which is incorporated herein by reference, hereby FINDS as follows:

1. In light of the rapidly increasing spread of Coronavirus Disease 2019 (“COVID-19”) with the Western District of Washington; the recommendations made by the Centers for Disease Control and Prevention (CDC) that individuals at higher risk of contracting this disease –including individuals with underlying health conditions, individuals age 60 and older, and individuals who are pregnant – avoid large groups of people; and the Governor of the State of Washington’s

1 proclamation of a State of Emergency and order that all people in Washington
2 State remain in their homes except for limited purposes; at this time, it will be
3 difficult to get a jury pool that would represent a fair cross section of the
4 community; and

- 5 2. Taking into account the exercise of due diligence, a failure to grant a continuance
6 in this case would deny counsel for the defendant the reasonable time necessary
7 for effective preparation due to counsel's need for more time to review the
8 evidence, consider possible defenses, and gather evidence material to the defense,
9 as set forth in 18 U.S.C. § 3161(h)(7)(B)(iv); and
- 10 3. A failure to grant such a continuance in this proceeding would likely result in a
11 miscarriage of justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i); and
- 12 4. The additional time requested is a reasonable period of delay, as the defendant has
13 requested more time to prepare for trial, to investigate the matter, to gather
14 evidence material to the defense, and to consider possible defenses; and
- 15 5. The ends of justice will best be served by a continuance, and the ends of justice
16 outweigh the best interests of the public and the defendant in any speedier trial, as
17 set forth in 18 U.S.C. § 3161(h)(7)(A); and
- 18 6. The additional time requested between the current trial date of June 1, 2020, and
19 the new trial date is necessary to provide counsel for the defendant the reasonable
20 time necessary to prepare for trial, considering counsel's schedule and all of the
21 facts set forth above; and

22 IT IS THEREFORE ORDERED that the trial date in this matter shall be continued to
23 October 13, 2020, and that pretrial motions shall be filed no later than September 1, 2020.
24 To the extent that the community health issues and impact on the jury pool has not abated by
25 that date, a further continuance will be considered.

26 IT IS FURTHER ORDERED that the period time from the date of this order up to and
27 including the date now set for this trial, shall be excludable time pursuant to 18 U.S.C.
28 § 3161.

1 Dated this 3rd day of April, 2020.
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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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15 Presented by:

16 /s/Lyndsie R. Schmalz

17 LYNDIE R. SCHMALZ

18 Assistant United States Attorney
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